

## SENATE BILL No. 667

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2-103; IC 8-1-2-103.5.

**Synopsis:** Water utility recovery of fire protection costs. Provides that the charges relating to furnishing water for public fire protection purposes to customers located outside the county of the governmental unit responsible for setting the charges for the utility must be set through negotiation between the governmental unit and the county executive of the county in which the customers are located. Provides that if the governmental unit and the county executive cannot agree on charges within 30 days of beginning negotiation, either the governmental unit or the county executive can petition the Indiana utility regulatory commission to set the charges. Voids ordinances adopted before July 1, 1999, with respect to charges relating to  
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**Effective:** July 1, 1999.

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January 22, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.

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furnishing water for public fire protection purposes to customers located outside the county of the governmental unit responsible for setting the charges.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## SENATE BILL No. 667

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 8-1-2-103 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 103. (a) No public  
3       utility, or agent or officer thereof, or officer of any municipality  
4       constituting a public utility, as defined in this chapter, may charge,  
5       demand, collect, or receive from any person a greater or less  
6       compensation for any service rendered or to be rendered, or for any  
7       service in connection therewith, than that prescribed in the published  
8       schedules or tariffs then in force or established as provided herein, or  
9       than it charges, demands, collects, or receives from any other person  
10      for a like and contemporaneous service. A person who recklessly  
11      violates this subsection commits a Class A misdemeanor.  
12      (b) Notwithstanding subsection (a) of this section, if a city of less  
13      than twenty thousand (20,000) in population according to the most  
14      recent federal decennial census, constituting a public water utility, and  
15      acting as a public utility prior to May 1, 1913, either as such city, or by

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any commercial association, chamber of commerce, or committee with the consent of such city, entered into any agreement with any person engaged in manufacturing any articles of commerce to furnish free water for a certain limited time as an inducement to such person so engaged in manufacturing to locate the establishment or manufacturing plant of such person within such city, such city may carry out such agreement to furnish free water to such person for the period of time remaining, as stipulated in such contract. This chapter does not prohibit any public utility from supplying or furnishing free service or service at special rates to any municipality, or any institution or agency of such municipality, in cases where the supplying or furnishing of such free service or service at special rates is stipulated in any provision of the franchise under which such public utility was operating before May 16, 1919, or, in the event that such franchise shall have been surrendered, from supplying or furnishing such free service or service at special rates until such time as the franchise would have expired had it not been surrendered under this chapter; and it shall be the duty of any utility operating under any franchise, stipulating for free service or service at special rates to municipality, or any institution or agency of such municipality, to furnish such free service or service at special rates.

(c) This subsection applies to a public utility that provides water for public fire protection services in both a county containing a consolidated city and in portions of counties that are adjacent to the county containing a consolidated city. This subsection applies throughout the territory served by the public utility. In the case of a public utility furnishing water and beginning on January 1, 1994, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of the customers of the public utility. However, the construction cost of any fire hydrant installed after December 31, 1993, at the request of a municipality, township, county, or other governmental unit shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by this section shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

- (1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed after December 31, 1993; and
- (2) increase the rates charged each customer of the utility, based



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on equivalent meter size, by an amount equal to:

(A) the revenues lost from the elimination of such fire protection charges; divided by

(B) the current number of equivalent five-eighths (5/8) inch meters.

This change in the recovery of public fire protection costs shall not be considered to be a general increase in basic rates and charges of the public utility and is not subject to the notice and hearing requirements applicable to general rate proceedings. The commission shall approve the new schedule of rates that are to be effective January 1, 1994.

(d) This subsection applies to a public utility or a municipally owned water utility that is not subject to subsection (c). Except as provided in subsection (e), in the case of a public utility or municipally owned water utility furnishing water, if the governing body of the governmental unit with the greatest number of customers of the utility adopts an ordinance providing that costs shall be recovered under this subsection, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of all customers of the utility **who are located in the county of the governmental unit that adopts the ordinance. The charges of customers who are located outside the county of the governmental unit that adopts the ordinance shall be determined as provided in section 103.5 of this chapter.** However, on or after a date specified in the ordinance, the construction cost of any fire hydrant installed at the request of a municipality, township, county, or other governmental unit that adopts an ordinance under this subsection shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by the ordinance shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

(1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed on and after the date specified in the ordinance; and

(2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:

(A) the revenues lost from the elimination of such fire protection charges; divided by

(B) the current number of equivalent five-eighths (5/8) inch meters.



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1 This change in the recovery of public fire protection costs shall not be  
 2 considered to be a general increase in basic rates and charges of the  
 3 utility and is not subject to the notice and hearing requirements  
 4 applicable to general rate proceedings. The commission shall approve  
 5 the new schedule of rates that are to be effective on a date specified in  
 6 the ordinance.

7 (e) This subsection applies to a municipally owned water utility in  
 8 a city having a population of more than forty-three thousand (43,000)  
 9 but less than forty-three thousand seven hundred (43,700). The city  
 10 may adopt a plan to recover costs as described in subsection (d)  
 11 without passing an ordinance, if the plan applies only to customers of  
 12 the utility residing in a county having a population of more than two  
 13 hundred thousand (200,000) but less than three hundred thousand  
 14 (300,000). If the city wishes to adopt such a plan, the city shall file a  
 15 new schedule of rates with the commission, but is not subject to  
 16 commission approval of the rates.

17 (f) In the case of a change in the method of recovering public fire  
 18 protection costs under an ordinance adopted under subsection (d):

19 (1) on or after July 1, 1997, a customer of the utility located  
 20 outside the limits of a municipality whose property is not located  
 21 within one thousand (1,000) feet of a fire hydrant (measured from  
 22 the hydrant to the nearest point on the property line of the  
 23 customer) must be excluded from the increase in rates attributable  
 24 to the change and must not be included in the number of  
 25 equivalent five-eighths (5/8) inch meters for purposes of  
 26 subsection (d)(2)(B); or

27 (2) before July 1, 1997, the commission may:

28 (A) in the context of a general rate proceeding initiated by the  
 29 utility; or

30 (B) upon petition of:

31 (i) the utility;

32 (ii) the governmental unit that passed the ordinance; or

33 (iii) an affected customer;

34 prospectively exclude public fire protection costs from the rates  
 35 charged to customers located outside the limits of any  
 36 municipality whose property is not located within one thousand  
 37 (1,000) feet of a fire hydrant (measured from the hydrant to the  
 38 nearest point on the property line of the customer) if the  
 39 commission authorizes a simultaneous increase in the rates of the  
 40 utility's other customers to the extent necessary to prevent a loss  
 41 of revenues to the utility.

42 An increase in the rates of the utility's other customers under

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subdivision (2) may not be construed to be a general increase in basic rates and charges of the utility and is not subject to the hearing requirements applicable to general rate proceedings. This subsection does not prohibit the commission from adopting different methods of public fire protection cost recovery for unincorporated areas after notice and hearing within the context of a general rate proceeding or other appropriate proceeding.

SECTION 2. IC 8-1-2-103.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 103.5. (a) As used in this section, "adopting unit" refers to a governmental unit whose governing body adopts an ordinance under section 103(d) of this chapter.**

**(b) As used in this section, "charges" refers to charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes.**

**(c) As used in this section, "customers" refers to customers:**

**(1) of a public utility or municipally owned water utility of an adopting unit; and**

**(2) who are located outside the county of the adopting unit.**

**(d) The charges of customers shall be determined through negotiation between the adopting unit and the county executive of the county in which the customers are located.**

**(e) If, thirty (30) days after the adopting unit and the county executive begin negotiations under subsection (d), the adopting unit and the county executive cannot agree on fair and equitable charges to be paid by the customers, either the adopting unit or the county executive may petition the commission to set fair and equitable charges to be paid by the customers.**

**(f) The governing body of an adopting unit shall adopt an ordinance to set the charges to be paid by customers whether the charges are set under subsection (d) or (e).**

SECTION 3. [EFFECTIVE JULY 1, 1999] **(a) The definitions in IC 8-1-2-103.5, as added by this act, apply throughout this SECTION.**

**(b) An ordinance adopted under IC 8-1-2-103(d) before July 1, 1999, with respect to charges to customers is void.**

**(c) This SECTION expires January 1, 2000.**

